

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA ~~REG'D NO 16~~ PM 2:30
SAVANNAH DIVISION

DOMINIC BROWN,)	CLERK <u>Mark</u>
)	SO. DIST. OF GA.
Petitioner,)	
)	
V.)	CASE NOS. CV406-087
)	CR404-161
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

O R D E R

Before the Court is Petitioner's "Motion to Reinstate Motion under 28 U.S.C. § 2255." (Doc. 23.) In the motion, Petitioner requests that, pursuant to Federal Rule of Civil Procedure 60(b)(2), the Court reinstate his previously dismissed habeas petition based on newly discovered evidence. (Id. at 1.) However, the Eleventh Circuit Court of Appeals has concluded that the Antiterrorism and Effective Death Penalty Act provisions that pertain to successive habeas petitions apply to Rule 60(b)(2) motions that seek relief from a prior judgment dismissing an earlier § 2255 petition. Farris v. United States, 333 F.3d 1211, 1216 (11th Cir. 2003). Therefore, the Court may only entertain Petitioner's motion after he receives certification from the Eleventh Circuit permitting him to

file a second or successive habeas corpus petition.¹ Id.

Because Petitioner has not obtained the appropriate certification, his motion must be **DENIED**.²

SO ORDERED this 18th day of August 2010.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹ Under Eleventh Circuit Rule 22-3(a), Petitioner must file an "Application for Leave to File a Second or Successive Habeas Corpus Petition" with the Eleventh Circuit, using the form provided by the Eleventh Circuit Clerk of Court, before filing a second or successive petition in this Court.

² Petitioner's Motion of Response (Doc. 26) is **DISMISSED AS MOOT**.